

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**RON BROWN, Sheriff of Sierra
County, et al.,**

Plaintiffs,

v.

CIV. NO. 09-508 WJ/ACT

**BOARD OF COUNTY COMMISSIONERS
OF SIERRA COUNTY, NEW MEXICO, et al.,**

Defendants.

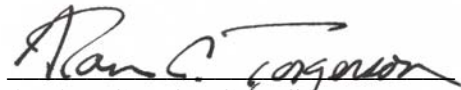
MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Defendants Motion to Stay Proceedings filed October 22, 2009 [Doc. 16]. Defendants indicated that the Motion was opposed. Plaintiffs have not filed a response. The Court finds that the motion is well taken and will be granted.

Defendants Janet Porter Carrejo and Janet K. Monsibiaz have moved for dismissal of the claims against them based on, *inter alia*, on the doctrine of qualified immunity. The qualified immunity defense protects governmental officials performing discretionary functions from liability as well as the burdens of trial and discovery. *Jiron v. City of Lakewood*, 392 F.3d 410, 414 (10th Cir. 2004); *Workman v. Jordan*, 958 F.2d 332, 336 (10th Cir. 1992) (“we reiterate that qualified immunity is not only a defense to liability but also entitlement to immunity from suit and other demands of litigation”) (citing *Siegert v. Gilley*, 500 U.S. 226 (1991)). Indeed when a motion to dismiss based on qualified immunity is filed, a court has limited discretion on the issue of a stay of discovery, and should stay discovery until the court considers and determines the motion to dismiss. *Workman*, 958 F.2d at 336.

The Court will stay this matter. If discovery were to proceed with the non-qualified immunity Defendants, as a practical matter, the qualified immunity Defendants have to participate in ongoing discovery. They would have to keep abreast of the discovery, review discovery and responses, send representatives to depositions and incur the burdens of the trial process while awaiting a resolution on the pending motions to dismiss. In addition, the court has obligations under the Civil Justice Reform Act, 28 U.S.C. § 471 *et seq.*, to reduce the costs of litigation. By allowing any discovery to proceed, the Court would violate its obligation under the CJRA.

IT IS THEREFORE ORDERED that Defendants motion to stay is granted and all discovery will be stayed pending the court's disposition of the County Defendants' Motion to Dismiss, filed September 14, 2009 [Doc. 7].

A handwritten signature in black ink, appearing to read "Alan C. Torgerson", is written over a horizontal line.

ALAN C. TORGERSON
UNITED STATES MAGISTRATE JUDGE